

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 580/97

Friday, this the 24th day of September, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR JL NEGI, ADMINISTRATIVE MEMBER

M.T. Philip,
S/o. Late T.V. Thomas,
Superintendent of Police (Laison Officer),
Kerala Police Housing Construction Corporation,
Trivandrum - 41, Now residing at: 3/6,
Kamal Nagar, Nalanchira, Trivandrum - 15.

...Applicant

By Advocate Mr. M.R. Rajendran Nair

Vs.

1. The Union of India represented by
the Secretary,
Ministry of Home Affairs,
New Delhi.
2. The State of Kerala, represented by
The Chief Secretary,
Secretariat, Trivandrum.
3. The Union Public Service Commission,
represented by its Secretary,
Union Public Service Commission,
Shajahan Road, New Delhi.
4. S. Gopinath,
Commandant, KAP III Battalion,
Trivandrum.

...Respondents

By Advocate Mr. Sunil Jose, ACGSC for R-1&3
By Advocate Mr. C.A. Joy, GP for R-2
By Advocate Mr. R. Sudheer for R-4

The application having been heard on 24.9.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to declare that his non-selection
for appointment by promotion to the Indian Police Service
for the year 1995-96 is illegal and to direct the respondents
to consider him for appointment by promotion to the Indian
Police Service for the year 1995-96 in accordance with law
or for the year 1996-97.

2. The applicant is aggrieved by his non-selection and consequential denial of appointment by promotion to the Indian Police Service for the year 1995-96 and delay in considering his case for the year 1996-97. The applicant was working as Superintendent of Police (Laison), Police Housing Construction Society at the time of filing the application. He was the seniormost officer in the zone of consideration for appointment by promotion to Indian Police Service for the year 1995-96. He says that from a reasonable evaluation, the Select Committee could have only come to the conclusion that he is the suitable candidate among those considered for promotion to Indian Police Service. His merit is not assessed in a just and proper manner. His juniors have been promoted to Indian Police Service. The applicant, if he was graded atleast as very good by the Selection Committee, he would have been selected for the reason that the 4th respondent was categorised only as very good. The applicant should have been categorised as outstanding or atleast very good.

3. The 2nd respondent in the reply statement has stated that it is not correct to say that the applicant was not assessed in a just and proper manner. The Selection Committee assessed the applicant after considering all the entries contained in the service records. Classification of the officers as outstanding, very good, good or unfit as the case may be, on an overall relative assessment of the service records of the officers is within the domain of the Selection Committee.

4. In the reply statement filed by the 3rd respondent, it is contended that in terms of regulation 5(4) of IPS

(Appointment by Promotion) Regulations, 1955, the Committee duly classified the eligible State Police Service Officers included in the zone of consideration as outstanding, very good, good or unfit as the case may be, on an overall relative assessment of their service records. Grading given by reporting/reviewing officer in the ACRs reflects the merit of the officers reported upon in isolation whereas the classification made by the Selection Committee on the basis of the examination of the service records of all the eligible officers in the zone of consideration reflects the merit of the officer in relation to other officers in the zone of consideration. The Committee adopts its own norms and yardsticks in order to ensure equality, justice and fair play in the matter of assessment of ACRs. The applicant was duly considered by the Committee at Serial No.1 in the zone of consideration as submitted by the State Government on an overall relative assessment of his service records. The Committee duly assessed him as good. On the basis of this grading, his name could not be included in the select list as per rules/regulations as sufficient number of officers with overall relative assessment as very good were available for inclusion in the select list.

5. We are considering the issue involved herein pretty well bearing in mind, the limited scope of judicial review that it is not the function of the Tribunal to hear appeals over decisions of the Selection Committee and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Tribunal has no such expertise. The decision of the Selection Committee can be interfered with

only on limited grounds such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating selection or proved affecting the selection, etc.

6. The applicant is only pressing into service the ground that the procedure is vitiated and to be more specific that norms have not been evolved and that comparative assessment has not been made based on the service records of the applicant and others who were in the zone of consideration.

7. According to the applicant, based on the entries in his ACRs and other service records, he should have been assessed, if not as outstanding, atleast as very good and no reasonable person could come to a different finding. It is not for the applicant to say that he should be graded, if not outstanding, atleast as very good. It is for the Selection Committee to assess the grading. Then the question is whether the Selection Committee has done it in a just and reasonable manner and in accordance with norms evolved. If the Selection Committee has followed the norms evolved and the grading has been made in a just and reasonable manner, the assessment of the Selection Committee cannot be termed as one that a reasonable man cannot arrive at.

8. We directed respondents 1&3 to make available for our perusal the records of the proceedings of the Selection Committee. The learned counsel appearing for respondents 1&3 made the same available in a sealed cover. We have examined the same closely. We see from the same that the grading has been done by the Selection Committee based on the norms and the norms have been applied to all the officers who were in the zone of consideration alike. The applicant

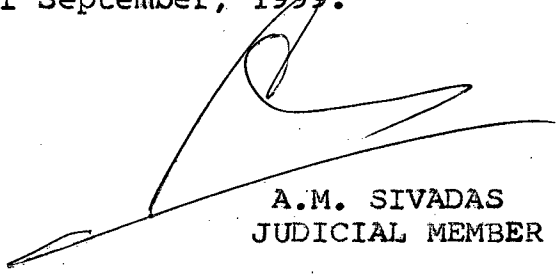
has been graded as good. There are various others who have got better gradings. We do not find any infirmity such as mala fides, arbitrariness or perversity in the exercise done by the Selection Committee. That being the position, there is no scope for any interference by this Tribunal.

9. We directed the 2nd respondent, State of Kerala, to produce the ACRs of the applicant for the relevant period and a file containing the ACRs of the applicant was produced by the learned counsel for the 2nd respondent today as made available to him. We are constrained to observe that the 2nd respondent is yet to learn how to maintain Annual Confidential Records of the employees working under it and what is the sanctity of the ACRs. It will be preferable for the 2nd respondent to remember that the ACRs are not to be sent just like a newspaper for producing before the Tribunal. A Confidential Report should always be a Confidential Report and its confidential nature should always be kept up. We refrain from stating anything further.

10. Accordingly, we do not find any merit in this O.A. and O.A. is dismissed. No costs.

Dated this the 24th day of September, 1999.


J.L. NEGI
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER